

Remarks/Arguments

The present amendment is made in response to the Office Action dated June 16, 2003 and identified as Paper No. 3. Claim 1-12 remain pending in the application.

In the Action, the Examiner rejected claim 1 and 11 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,850,599 to Seiderman ("*Seiderman*"). Claims 2-10 and 12 were rejected under 35 U.S.C. § 103(a) obvious over *Siederman* in view of U.S. Patent No. 5,272,747 to Meads ("*Meads*"). Claims 1 and 11 were also rejected under the judicially created doctrine of double patenting in view of co-pending application Serial No. 10/067,462.

With regard to the rejection of claims 1 and 11 as anticipated, *Seiderman* does not include each and every element of the claimed invention as required for a 35 U.S.C. § 102 rejection. In particular, the cited reference lacks the express claim limitation calling for circuitry for verifying authorized credit card access and accepting credit payment over said radio/telephone now recited by the claims of the current application. While *Seiderman* discloses a portable phone that is accessed by a credit card, *Seiderman* does not teach a portable phone that verifies a credit card for payment of a transaction. Instead, the portable phone of *Seiderman* requires a credit card for its use – not for payment of a contemporaneous commercial transaction – and thus is analogous to a **public pay phone** that takes credit cards rather than coins.

While such a system may be useful in places such as rental cars, where different users can swipe their credit card to use the phone on a pay-per-use basis, the present invention includes a system for completing a commercial credit transaction by obtaining payment via credit card. Thus, the claimed invention is analogous to a **cash register** where the swiping of the credit card is to obtain credit verification and information to complete a sales transaction, rather for the use of the phone itself.

With regard to the rejection of claims 2-10 and 12 as obvious, the proposed combination lacks the claimed circuitry for verifying authorized credit card access and accepting credit payment over said radio/telephone, as described above.

With regard to the rejection of claims 1 and 11 under the judicially created doctrine of double patenting, included herewith is a terminal disclaimer.

Also enclosed herewith is a Petition for a 3 Month Extension, a check for \$475.00, and a Change of Correspondence form. The Commissioner is authorized to charge any deficiencies or credit to Deposit Account 50-1546.

In view of the foregoing amendments, the Examiner's reconsideration is requested and allowance of the present application is believed to be in order. If the Examiner believes a phone conference with Applicant's attorney would expedite prosecution of this application, she is respectfully requested to contact him at (315) 218-8515.

Respectfully submitted,

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